
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Common Frequency, Inc.)	File No.: EB-FIELDWR-14-00014653
Licensee of Station KXRY)	
)	NOV No.: V201432920027
)	
Portland, Oregon)	Facility ID: 66303

NOTICE OF VIOLATION

Released: April 17, 2014

By the Resident Agent, Portland Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)¹ to Common Frequency, Inc. (Common Frequency), licensee of radio station KXRY in Portland, Oregon. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violation(s) noted herein.²

2. On March 27, 2014, agents of the Enforcement Bureau's Portland Office inspected radio station KXRY located at 833 S.E. Main Street, Suite 103, Portland, Oregon 97214, and observed the following violations:

- a. 47 C.F.R. § 11.21(a): "... If a state's emergency alert system is capable of initiating EAS messages formatted in Common Alerting Protocol (CAP), its State Plan must include specific and detailed information describing how much messages will be aggregated and distributed to EAS Participants within the state, including the monitoring requirements associated with distributing such message." At the time of the inspection, KXRY's State Plan, 2010 Edition, was outdated and it did not contain information concerning the Common Alerting Protocol.
- b. 47 C.F.R. § 11.61(b): "Entries shall be made in EAS Participant records, as specified in §11.35(a) and 11.54(a)(3)." KXRY did not EAS CAP-formatted

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

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entries in the station's EAS logs from February 22, 2014 through March 26, 2014.

3. As the nation's emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that broadcasters play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees. We also must investigate violations of other rules that apply to broadcast licensees.

4. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,³ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Common Frequency must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

5. In accordance with Section 1.16 of the Rules, we direct Common Frequency to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of Common Frequency with personal knowledge of the representations provided in Common Frequency's response, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information requested by this Notice which is in the licensee's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

6. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission
Portland Office
P.O. Box 61469
Vancouver, WA 98666-1469

³ 47 U.S.C. § 308(b)

⁴ 47 C.F.R. § 1.89(c).

⁵ Section 1.16 of the Rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'." 47 C.F.R. § 1.16.

⁶ 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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7. This Notice shall be sent to Common Frequency, Inc. at its address of record.

8. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Binh Nguyen
Resident Agent
Portland Office
Western Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).